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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,265

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EXAMINER

GARCIA, GABRIEL I

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,265	Applicant(s) ANDERLE ET AL.	
	Examiner GABRIEL I. GARCIA	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/26/06</u> . | 6) <input type="checkbox"/> Other: ____. |

Part III DETAILED ACTION

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, **such as "means"** and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-7 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-6 of U.S. Patent No. 10/978,177. Claims 1-6 are identical. It appears that claim 1-6 should have been canceled, and claim 7 should be the only pending claim in this application. A telephone call was made to Mr. Jorge Villabon on 8/1/08 to request a cancellation to claims 1-6 or clarification, but did not result in a cancellation or clarification. Applicant's representative was not available. This is a double patenting rejection.

3. Applicant is advised that should claims 1-6 of prior U.S. Patent No. 10/978,177 be found allowable, claims 1-6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramamurthy et al. (WO 00/54213).

With regard to claim 1, Ramamurthy et al. teaches a method for the color correction of digital image data (reads on figs 1-4, which depicts the color correction between what is shown in the monitor to what is shown in the film recorder) generated by spectral absorption of white light in color filters of a first representation means (see fig. 6b, 7b, and 8c, the color filters being the conversion of RGB to CIEXYZ), the method comprising the following steps: (a) detection of the primary color values of the image data, the primary color (e.g. RGB) values being related to the first representation means (reads on figs. 1, 4D, 4E, 5D, 5E, and 7B, which receives the scanned colors such RGB) (b) correction of the primary color values in order to generate secondary color values, which are related to a second representation means and which take account of the absorption of light in secondary densities of the color filters (reads on fig. 6b, which depicts the color correction to obtain the secondary color values CIEXYZ and CIELAB), wherein (c) a plurality of absorption spectra are generated for different densities of at least one color filter (reads on fig. 8a), and (d) the spectral profile of the absorption spectra of the color filters influences the correction of the primary color values for generating the secondary color values (reads on 4D, 4E, 5D, 5E, which depicts how the profiles are to generate the secondary color values).

With regard to claim 3, Ramamurthy et al. further teaches wherein a plurality of absorption spectra are generated for all the color filters (reads on fig. 6a, 6b., and fig. 11).

With regard to claim 7, Ramamurthy et al. teaches a video system (reads on the abstract that describes how the color correction is implemented in the production of motion pictures or video) comprising: at least one input for receiving incoming video data, said incoming video data characterized by a first set of color characteristics (reads on the digital recorder and recorder profile of fig. 1); at least one output for delivering outgoing video data to a display device (see fig. 1, which depicts how the recorder video can be viewed by a monitor), said outgoing data comprising a second set of color characteristics (reads on printer profile of fig. 1); at least one database storing a plurality of sets of color characteristics (reads on the color management system created to make the color correction as depicted in fig. 4b); at least one processor coupled to said database for converting said incoming video data into outgoing video data as a based upon at least on of said sets of characteristics stored in said database (reads on claim 1).

Conclusion

5. Claims 2, 4, 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and claims will be allowed if the rejection under 35 U.S.C 101 is overcome. The prior art of record does not teach color correction method as taught by applicant's invention having the features with the details as described in claims 2,4,5 and 6.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lum (4,746,592) teaches a color correction in negative image using positive imaging chemistry.

Takada et al. (5,309,256) teaches a method and apparatus for processing image and correction chart employed in the apparatus.

Satou et al. (5,838,465) teaches a color compensating method of color image and color image generating apparatus.

Fukuda et al. (6,624,876) teaches a method of calibration pattern and printer.

Deering (6,950,109) teaches a multi-spectral color correction

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel I. Garcia whose telephone number is (571) 272-7434. The Examiner can normally be reached Monday-Thursday from 7:30 AM-6:00 PM. The fax phone number for this group is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2600.

/Gabriel I Garcia/

Primary Examiner, Art Unit 2625

Gabriel I. Garcia
Primary Examiner
August 1, 2008